

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

UNITED STATES OF AMERICA, on behalf of  
its agencies, DEPARTMENT of the NAVY,  
THE DEFENSE THREAT REDUCTION  
AGENCY, THE UNITED STATES NUCLEAR  
SECURITY ADMINISTRATION, and the  
FEDERAL BUREAU OF INVESTIGATION,

PLAINTIFFS,

KITSAP COUNTY and the KITSAP COUNTY  
DEPARTMENT OF EMERGENCY  
MANAGEMENT,

DEFENDANTS.

CASE NO.

DECLARATION OF MS. DONNA  
HILTON, NAVY REGION  
NORTHWEST FREEDOM OF  
INFORMATION ACT  
COORDINATOR

**DECLARATION OF DONNA HILTON**

1. (U) I am the Freedom of Information Act (FOIA) Coordinator for Navy Region Northwest (NRNW). I have held this position since October, 2004. In this position, I report directly to the senior uniformed attorney for NRNW. My responsibilities include receipt, coordination, and response of all FOIA related matters for NRNW. I am the individual responsible for assembling the documents that comprise the administrative record in this case, including the plaintiff's requests for Navy records made pursuant to the Washington Public Records Act (PRA) to the Kitsap County Department of Emergency Management (Kitsap Emergency Management).

1        2.        The statements made in this declaration are based upon my personal knowledge or  
2 upon information available to me in my official capacity and are true and correct to the best of my  
3 knowledge.

4        3.        The purpose of this declaration is to provide the Court with a description of the actions  
5 taken by the Navy, in coordination with the Defense Threat Reduction Agency (DTRA), the United  
6 States National Nuclear Security Administration ("NNSA"), and Federal Bureau of Investigation  
7 ("FBI", collectively, the "Federal Agencies" or "United States"), in response to the PRA for records  
8 submitted to the County Emergency Management.

9        4.        NRNW provides shore-based services, enabling the Fleet and supported commands to  
10 focus on their mission. The effective management of our installations is integral to delivering  
11 essential operations, facilities, and quality of life programs. Additionally, NRNW operates a Region  
12 Operations Center that functions as a component of the National Incident Management System for  
13 coordinated responses to natural disasters and other events. In this capacity, NRNW plays an active  
14 role in the NUWAIX under the National Response Framework. NUWAIX provides a mechanism for  
15 exercising the United States' interagency, state, and local cooperation and collaboration in response  
16 to radiological accidents or incidents.

17        5.        Between 2013 and 2015, the Federal Agencies conducted various Nuclear Weapons  
18 Accident Incident Training Exercises ("NUWAIXs") at Navy Base Kitsap, in Bangor, Washington.  
19 Records containing sensitive national security information were shared with the County Emergency  
20 Management as part of these NUWAIXs.

21        6.        Introductory material provided to the state and local emergency planning agencies in  
22 connection with a 2014 training exercise, provided as follows:

23                The NRNW Mini-NUWAIX 2014-01 is an unclassified exercise. Due to  
24 the nature of the event, some exercise material and player discussions,  
25 however, in the Region Operations Center and site locations could be  
26 classified SECRET. All precautions must be taken to safeguard classified  
27 information. Also there may be some exercise material intended for the  
28 exclusive use of exercise planners and evaluators, but players may view  
other materials that are deemed necessary to their performance. . . .  
All Exercise participants should use appropriate guidelines to ensure  
proper control of information within their areas of expertise and protect  
this material in accordance with current  
DOD/NORTHCOM/FBI/DOE/FEMA directives.

1       *Public release of exercise materials to third parties is at the*  
2       *discretion of NRNW.*

3       (TAB 1)

4       7.       On January 15, 2015, Glen Milner ("Milner") submitted a request to Kitsap  
5       Emergency Management under the Washington State Public Records Act ("PRA"), RCW 42.56.001  
6       et seq., seeking the following:

- 7       \*all records in use since January 1, 2012 addressing the consequences of a radiological
- 8       accident or similar event at Naval Base Kitsap-Bangor and other U.S. Navy facilities;
- 9       \*all records in use since January 1, 2012 regarding emergency response planning
- 10       involving Naval Base Kitsap-Bangor and other U.S. Navy facilities;
- 11       \*all records regarding Emergency Protection Zones, Emergency Protective Zones, EPZ, or
- 12       similar zones or areas for U.S. Navy facilities;
- 13       \*the Nuclear Weapons Accident Response Plan (NW ARP) and similar and related
- 14       records;
- 15       \*the Federal Radiological Monitoring and Assessment Plan (FRMAP) and Federal
- 16       Radiological Emergency Response Plan and similar and related records;
- 17       \*all records related to the Radiological Response Team or similar response organization;
- 18       \*all records regarding the public release or dissemination of the above listed records;
- 19       \*Map Your Neighborhood (MYN) records related to 16159 Clear Creek Rd. NW in
- 20       Poulsbo.

21       (TAB 2)

22       8.       On April 29, 2015, the Kitsap County Prosecuting Attorney's Office sent a letter to  
23       NRNW notifying the Navy about Milner's records request and advising that the responsive records  
24       would be released no later than May 29, 2015, unless "one or all" of the agencies obtained a court  
25       order enjoining the release of the requested records. (TAB 2)

26       9.       On April 29, 2015 NRNW notified other federal agencies with potential equities in the  
27       documents including the Department of Energy (DOE), Federal Bureau of Investigation (FBI), U.S.  
28       Northern Command, Strategic Systems Programs (SSP), Defense Threat Reduction Agency (DTRA),  
29       Naval Reactors (NR) and Federal Emergency Management Agency.

30       10.      On May 13, 2015 NRNW coordinated with County to initiate coordination on the  
31       response.

32       11.      On May 20, 2015 NRNW conducted a brief review of a subset of the 6000 pages held by  
33       the County.

34       12.      On May 21, 2015 NRNW requested County withhold all documents as review of the 6000  
35       pages was commencing. County provided a DVD of the documents to facilitate the review. (TAB 3)

1  
2 13. The DVD contained 6000 pages consisting of more than 300 documents, including  
3 PowerPoint presentations, reports, exercise plans and scenarios, spreadsheets listing time lines for  
4 scenarios, contact lists, minutes of planning meetings, and emails. An initial review of these records  
5 confirmed some of the documents contain sensitive national security information.

6 14. On May 21-22, 2015, NRNW forwarded copies of the documents to the interested Federal  
7 Agencies, including NNSA, FBI, and DTRA for review by their subject matter experts.

8 15. On May 26, 2015, after consultation with NRNW, the County agreed to extend the  
9 deadline for the Navy or one of the other agencies to obtain a court order enjoining the release until  
10 June 12, 2015. (TAB 4)

11 16. On June 26, 2015, the federal agencies identified seven (7) documents that required no  
12 redaction that could be released to Mr. Milner and provided these documents to the County. (TAB 5)

13 17. Also in June 2015, the United States Attorney's Office for the Western District of  
14 Washington ("USAO") was asked by the Federal Agencies to become involved. In an effort to  
15 narrow the issues in dispute, the Federal Agencies prepared an index of the documents which was  
16 provided to Milner.

17 18. On June 26, 2015, Mr. Milner identified forty-nine (49) documents the did not need to  
18 be provided under his WPRRA request. Those documents were: 5, 14, 22, 27, 89, 90, 91, 192, 194, 206,  
19 209, 210, 216, 217, 223, 224, 226, 230, 240, 241, 242, 244, 245, 246, 247, 248, 249, 264, 265, 266, 277,  
20 279, 291, 312, 318, 319, 322, 325, 326, 332, 334, 335, 339, 340, 341, 342, 346, 350, and 354. (TAB 5).

21 19. On June 30, 2015, the County produced 98 pages of records to Milner that the Federal  
22 Agencies had determined did not contain any protected material and informed Mr. Milner that it  
23 hoped to complete the production by August 14, 2015. (TAB 5)

24 20. The Federal Agencies then focused on identifying any records that did not contain  
25 sensitive national security information.

26 21. On July 10, 2015, the Federal Agencies provided twenty-seven (27) additional documents  
27 to County that could be released without redaction. (TAB 6)

28 22. On September 22, 2015, the Federal Agencies provided the County a draft *Vaughn*  
Index listing the documents which needed to be withheld either in whole or in part (i.e., disclosed



1 with redactions), together with a DVD with the documents that the Federal Agencies had determined  
2 could be released in redacted form. (TAB 7)

3 23. In follow-up to the Vaughn index, the USAO sent the County a letter brief providing a  
4 more detailed explanation of the basis for the withholding of information. (TAB 8)

5 24. The County agreed to review these materials and respond to the Federal agencies  
6 exemption claims.

7 25. On November 12, 2015, while waiting for the County to comment on their proposed  
8 withholdings, and after obtaining the County's agreement, the Federal Agencies provided Milner with  
9 a set of the proposed redactions and cleared records, and requested his comments. (TAB 9)

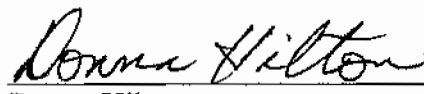
10 26. On November 17, 2015, Milner objected to the format of the documents he had  
11 received and requested additional details on the *Vaughn* Index. (TAB 10)

12 27. The Federal Agencies agreed to change the format of the redactions and revise the  
13 *Vaughn* Index to address Milner's requests.

14 28. On November 30, 2015, while the Federal Agencies were attempting to prepare  
15 updated redactions and an updated *Vaughn* Index to address Milner's requests, and without ever  
16 addressing the Federal Agencies' substantive exemption claims, the County sent the Federal Agencies  
17 a third- party notice informing them that the County had decided to unilaterally release the federally  
18 protected sensitive national security information records to Milner, and to Ed Friedrich, a reporter  
19 from the Kitsap Sun who had submitted a similar request to the County on October 19, 2015, if the  
20 Federal Agencies did not by December 16, 2015 obtain a Court Order enjoining the County from  
21 doing so. (TAB 11)

22 29. Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury under the laws of the  
23 United States of America that the statements made in this declaration are based upon my personal  
24 knowledge or upon information available to me in my official capacity and are true and correct to the  
25 best of my knowledge.

26 Executed the 14th day of December, 2015, at Silverdale, Washington.

27   
28 Donna Hilton